

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SHAH MD IMRAN KADER,

Petitioner,

DECISION AND ORDER

-vs-

19-CV-6401 (CJS)

WILLIAM P. BARR, Attorney General
of the United States, et al.,

Respondents.

Petitioner, an alien subject to a final order of removal, brought this action pursuant to 28 U.S.C. § 2241, alleging that Respondents violated his due process rights under the Constitution. Petitioner alleged, *inter alia*, that he has been in custody for over eleven months without having had a hearing on whether his incarceration was warranted by danger to the public or flight risk. Pet., 1, May 30, 2019, ECF No. 1. During the pendency of the application, the New York Civil Liberties Union Foundation (“NYCLUF”) filed a motion for leave to file brief of *amici curiae*. Mot. for Leave, Jan. 31, 2020, ECF No. 16.

However, Respondents have moved to dismiss this action as moot, on the grounds that Petitioner is no longer in the custody of the United States. Mot. to Dismiss, Feb. 19, 2020, ECF No. 18. More specifically, Respondents have provided evidence that Petitioner was released from custody of the Department of Homeland Security (“DHS”) on bond and an order of supervision. Mot. Dismiss, Ex. A, Feb. 19, 2020, ECF No. 18-1.

“The district courts in this Circuit to have considered the issue have found that where an alien challenging his detention under 28 U.S.C. § 2241 is released during the pendency of his petition under an order of supervision, the petition is rendered moot.” *Denis v. DHS/ICE of Buffalo, N.Y.*, 634 F. Supp.2d 338, 341 (W.D.N.Y. 2009) (collecting

cases). Therefore, the Court finds that as a result of Petitioner's release from DHS custody, his application for a writ of habeas corpus is moot. *See, e.g., Musheyev v. Barr*, No. 6:19-CV-06729-MAT, 2020 WL 735712, at *2 (W.D.N.Y. Feb. 13, 2020)

Accordingly, it is hereby

ORDERED, that Respondents' motion [ECF No. 18] is granted; and it is further

ORDERED, that Petitioner's application [ECF No. 1] is dismissed; and it is further

ORDERED, that NYCLUF's motion for leave to file brief of *amici curiae* [ECF No. 16] is denied. The clerk of the court is directed to terminate this action.

SO ORDERED.

Dated: March 26, 2020
Rochester, New York

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge